In the High Court of Punjab and Haryana, Chandigarh.

R.S.A. No. 1269 of 2005

Date of Decision: 13.11.2007

Amarjit Singh

…Appellant

Versus

Sadhu Singh and Another

…Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Surinder Garg, Advocate
for the appellant.

RAJESH BINDAL, J.

The appellant/plaintiff is in second appeal before this Court against the concurrent findings of fact recorded by both the Courts below, whereby the suit filed by him for claiming right on the property of deceased Sarwan Singh on the basis of will dated April 26, 1987, was dismissed.

In the suit for declaration filed by the appellant/plaintiff, the claim is made on the basis of will dated April 26, 1987 executed in his favour, excluding the wife of deceased Sarwan Singh, who died issueless. The challenge was also to the mutation No. 1840 sanctioned in favour of the defendant-wife of deceased Sarwan Singh, who died on November 7, 1987. The will did not see light of the day till the filing of suit on July 29, 1992. However, the claim set up by the appellant/plaintiff was not accepted by both

the Courts below for the reason that the will propounded by the appellant was surrounded by various suspicious circumstances. On appreciation of the evidence, it was found that even though Sarwan Singh died issueless and had left only his wife behind, no good reason was available for excluding her from inheritance of his property. Mere reason that she had been given some gold and silver ornaments was not sufficient to deprive the widow of her legitimate right. The will having not been scribed by a regular Deed Writer was another suspicious circumstance. Not only this as noticed by the Courts below, perusal of the will showed that there was difference in spacing, the thumb mark was super imposed and further the fact that deceased Sarwan Singh was in litigation with appellant/plaintiff and was living peacefully with his wife at the time of his death, were sufficient facts to hold that the will propounded by the appellant was nothing but a fabricated document to grab the property of deceased Sarwan Singh, who died issueless.

With the above findings recorded by the Courts below on appreciation of the material on record, in my opinion there was no other conclusion possible. The findings recorded by the Courts below cannot in any manner be held to be perverse. No substantial questions of law arises.

Accordingly, the appeal is dismissed.

(Rajesh Bindal)
Judge

November 13, 2007
"DK"